

MOTOR VEHICLE USE TAX
Private Vehicle Use TAX - Value Exceeds \$15,000

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

THE DEPARTMENT OF REVENUE)
OF THE STATE OF ILLINOIS

V.

TAXPAYER,

Taxpayer(s)

No.
Acct.

Daniel D. Mangiamele
Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

Synopsis:

This matter comes on for hearing pursuant to the Taxpayer's timely protest of Notice of Liability Assessment No. XXXXX issued by the Department on May 5, 1995, for Use Tax on the purchase of a 1993 Firebird automobile. At issue is the question of whether the liability established herein is proper. The Department assessed taxpayer after determining the valuation placed on the vehicle may be higher than stated on taxpayer's Use Tax return. Following the submission of all evidence and a review of the record, it is recommended that this matter be resolved in favor of the taxpayer.

Findings of Fact:

- (1) The Department's *prima facie* case, inclusive of all jurisdictional elements, was established by the admission into evidence of the Notice of Tax Liability, showing a total liability due and owing in the amount of \$466.27. Dept. Ex. No. 1
- (2) The vehicle in question is a 1993 Pontiac Firebird. Taxpayer's Ex. No. 1
- (3) Consideration for the transfer of above vehicle from OWNER to TAXPAYER was \$14,900.00 pursuant to bill of sale dated February 2, 1995 and signed by both parties. Taxpayer's Ex. No. 1, Tr. pp. 4, 7
- (4) Taxpayer financed purchase of said vehicle by signing promissory note in the amount of \$14,900.00 with BANK. Taxpayer Ex. No. 2, Tr. pp 5-7

Conclusions of Law:

On examination of the record established, this taxpayer has demonstrate by the presentation of testimony and through exhibits evidence sufficient to overcome the Department's *prima facie* case of tax liability under the assessment in question. In support thereof, the following conclusions are made:

A review of the testimony and evidence submitted in this matter establishes that the taxpayer's vehicle Use Tax return as filed was proper.

Article X Vehicle Use Tax (625 ILCS 5/3-1001 provides in part as follows:

Prior to January 1, 1988, the rate of tax shall be 5% of the selling price for each purchase of a motor vehicle covered by Section 3-1001 of this Code. Except as hereinafter provided, beginning January 1, 1988, the rate of tax shall be as follows for transactions in which the selling price of the motor vehicle is less than \$15,000 :

Number of Years Transpired After Model Year of Motor Vehicle	Applicable Tax
1 or less	\$390
<u>2</u>	<u>290</u>
3	215
4	165
5	115
6	90
7	80
8	65
9	50
10	40
over 10	25

Except as hereinafter provided, beginning January 1, 1988, the rate of tax shall be as follows for transactions in which the selling price of the motor vehicle is \$15,000 or more:

Selling Price	Applicable Tax
\$15,000-\$19,999	\$ 750
\$20,000-\$24,999	\$1,000
\$25,000-\$29,999	\$1,250
\$30,000 and over	\$1,500

(Emphasis Added)

The taxpayer submitted into evidence a bill of sale establishing the date of sale as February 2, 1995 and a purchase price in the amount of \$14,900.00 which evidence stands unrebutted by the Department.

Based on the calculations as provided in Article X, the taxpayer correctly calculated his tax liability in the amount of \$290.00.

Based on all the evidence and testimony contained herein, I recommend that the Notice of Tax Liability contained herein be cancelled as to this taxpayer.

Daniel D. Mangiamele
Administrative Law Judge